



Senate

General Assembly

File No. 593

January Session, 2009

Substitute Senate Bill No. 1108

Senate, April 9, 2009

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE POWERS AND DUTIES OF THE STATE ELECTIONS ENFORCEMENT COMMISSION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-7b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2009*):

3 (a) The State Elections Enforcement Commission shall have the
4 following duties and powers:

5 (1) To make investigations on its own initiative or with respect to
6 statements filed with the commission by the Secretary of the State, [or]
7 any registrar of voters or any town clerk, or upon written complaint
8 under oath by any individual, with respect to alleged violations of any
9 provision of the general statutes or regulations relating to any election
10 or referendum, any primary held pursuant to section 9-423, 9-425 or 9-
11 464 or any primary held pursuant to a special act, and to hold hearings
12 when the commission deems necessary to investigate violations of any

13 provisions of the general statutes or regulations relating to any such
14 election, primary or referendum, and for the purpose of such hearings
15 the commission may administer oaths, examine witnesses and receive
16 oral and documentary evidence, and shall have the power to subpoena
17 witnesses under procedural rules the commission shall adopt, to
18 compel their attendance and to require the production for examination
19 of any [books and papers] records, documents or information in any
20 format which the commission deems relevant to any matter under
21 investigation or in question. In connection with its investigation of any
22 alleged violation of any provision of chapter 145, or of any provision of
23 section 9-359 or section 9-359a, the commission shall also have the
24 power to subpoena any municipal clerk and to require the production
25 for examination of any absentee ballot, inner and outer envelope from
26 which any such ballot has been removed, depository envelope
27 containing any such ballot or inner or outer envelope as provided in
28 sections 9-150a and 9-150b and any other record, form or document as
29 provided in section 9-150b, in connection with the election, primary or
30 referendum to which the investigation relates. In case of a refusal to
31 comply with any subpoena issued pursuant to this subsection or to
32 testify with respect to any matter upon which that person may be
33 lawfully interrogated, the superior court for the judicial district of
34 Hartford, on application of the commission, may issue an order
35 requiring such person to comply with such subpoena and to testify;
36 failure to obey any such order of the court may be punished by the
37 court as a contempt thereof. In any matter under investigation which
38 concerns the operation or inspection of or outcome recorded on any
39 voting [machine] tabulator, ballot or memory card and any
40 components or processes utilized to program any such memory card,
41 the commission may issue an order to the municipal clerk, the
42 registrars of voters or any local official or company that maintains
43 custody of such voting tabulator, ballot, memory card or programming
44 components or processes to impound such [machine] tabulator, ballot,
45 memory card or programming components and processes until the
46 investigation is completed;

47 (2) To levy a civil penalty not to exceed (A) two thousand dollars

48 per offense against any person the commission finds to be in violation
49 of any provision of chapter 145, part V of chapter 146, part I of chapter
50 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17,
51 section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h,
52 9-23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-
53 40a, 9-42, 9-43, 9-50a, 9-50b, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-
54 232i to 9-232o, inclusive, 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412,
55 9-436, 9-436a, 9-453e to 9-453h, inclusive, 9-453k, [or] 9-453o, or any
56 regulation adopted pursuant to any said section or chapter, (B) two
57 thousand dollars per offense against any town clerk, registrar of
58 voters, an appointee or designee of a town clerk or registrar of voters,
59 or any other election or primary official whom the commission finds to
60 have failed to discharge a duty imposed by any provision of chapter
61 146 or 147 or any regulation adopted pursuant to either said chapter,
62 (C) two thousand dollars per offense against any person the
63 commission finds to have (i) improperly voted in any election, primary
64 or referendum, and (ii) not been legally qualified to vote in such
65 election, primary or referendum, [or] (D) two thousand dollars per
66 offense or twice the amount of any improper payment or contribution,
67 whichever is greater, against any person the commission finds to be in
68 violation of any provision of chapter 155, 156 or 157 or any regulation
69 adopted pursuant to any said chapter, (E) two thousand dollars per
70 offense against any person the commission finds to be in violation of
71 the Help America Vote Act, P.L. 107-252, as amended from time to
72 time, or (F) two thousand dollars per offense against any person the
73 commission finds to be in violation of any order of the commission.
74 The commission may levy a civil penalty against any person under
75 subparagraph (A), (B), (C), [or] (D), (E) or (F) of this subdivision only
76 after giving the person an opportunity to be heard at a hearing
77 conducted in accordance with sections 4-176e to 4-184, inclusive. In the
78 case of failure to pay any such penalty levied pursuant to this
79 subsection within thirty days of written notice sent by certified or
80 registered mail to such person, the superior court for the judicial
81 district of Hartford, on application of the commission, may issue an
82 order requiring such person to pay the penalty imposed and such

83 court costs, state marshal's fees and attorney's fees incurred by the
84 commission as the court may determine. Any civil penalties paid,
85 collected or recovered under subparagraph (D) of this subdivision for
86 a violation of any provision of chapter 155 applying to the office of the
87 Treasurer shall be deposited on a pro rata basis in any trust funds, as
88 defined in section 3-13c, affected by such violation;

89 (3) (A) To issue an order requiring any person the commission finds
90 to have received any contribution or payment which is prohibited by
91 any of the provisions of chapter 155 or 157 or any regulation adopted
92 pursuant to either said chapter, after an opportunity to be heard at a
93 hearing conducted in accordance with the provisions of sections 4-176e
94 to 4-184, inclusive, to return such contribution or payment to the donor
95 or payor, or to remit such contribution or payment to the state for
96 deposit in the General Fund or the Citizens' Election Fund, whichever
97 is deemed necessary to effectuate the purposes of chapter 155 or 157, as
98 the case may be;

99 (B) To issue an order when the commission finds that an intentional
100 violation of any provision of chapter 155, 156 or 157 or any regulation
101 adopted pursuant to any said chapter, has been committed, after an
102 opportunity to be heard at a hearing conducted in accordance with
103 sections 4-176e to 4-184, inclusive, which order may contain one or
104 more of the following sanctions: (i) Removal of a campaign treasurer,
105 deputy campaign treasurer or solicitor; (ii) prohibition on serving as a
106 campaign treasurer, deputy campaign treasurer or solicitor, for a
107 period not to exceed four years; and (iii) in the case of a party
108 committee or a political committee, suspension of all political
109 activities, including, but not limited to, the receipt of contributions and
110 the making of expenditures, provided the commission may not order
111 such a suspension unless the commission has previously ordered the
112 removal of the campaign treasurer and notifies the officers of the
113 committee that the commission is considering such suspension;

114 (C) To issue an order revoking any person's eligibility to be
115 appointed or serve as an election, primary or referendum official or

116 unofficial checker or in any capacity at the polls on the day of an
117 election, primary or referendum, when the commission finds such
118 person has intentionally violated any provision of the general statutes
119 or regulations relating to the conduct of an election, primary or
120 referendum, after an opportunity to be heard at a hearing conducted in
121 accordance with sections 4-176e to 4-184, inclusive;

122 (D) To issue an order to enforce the provisions of the Help America
123 Vote Act, P.L. 107-252, as amended from time to time, as the
124 commission deems appropriate;

125 (E) To issue an order following the commission's determination of
126 the right of an individual to be or remain an elector when such
127 determination is made (i) pursuant to an appeal taken to the
128 commission from a decision of the registrars of voters or board of
129 admission of electors under section 9-31l, or (ii) following the
130 commission's investigation pursuant to subdivision (1) of this
131 subsection;

132 (F) To issue a cease and desist order for violation of any general
133 statute or regulation under the commission's jurisdiction and to take
134 reasonable actions necessary to compel compliance with such statute
135 or regulation;

136 (4) To issue an order to a candidate committee that receives moneys
137 from the Citizens' Election Fund pursuant to chapter 157, to comply
138 with the provisions of chapter 157 or any regulation adopted pursuant
139 to said chapter, after an opportunity to be heard at a hearing
140 conducted in accordance with the provisions of sections 4-176e to 4-
141 184, inclusive;

142 (5) To apply to the superior court for the judicial district of Hartford
143 for an order requiring any person the commission finds to be in
144 violation of any order issued by the commission in accordance with
145 this section to comply with such order. The commission may apply to
146 the superior court for such an order only after giving such person an
147 opportunity to be heard at a hearing conducted in accordance with

148 sections 4-176e to 4-184, inclusive. The superior court for the judicial
149 district of Hartford, on application of the commission, may issue an
150 order requiring such person to comply with such order of the
151 commission;

152 [(5)] (6) To inspect or audit at any reasonable time and upon
153 reasonable notice the accounts or records of any campaign treasurer or
154 principal campaign treasurer, as required by chapter 155 or 157 and to
155 audit any such election, primary or referendum held within the state;
156 provided, (A) (i) not later than two months preceding the day of an
157 election at which a candidate is seeking election, the commission shall
158 complete any audit it has initiated in the absence of a complaint that
159 involves a committee of the same candidate from a previous election,
160 and (ii) during the two-month period preceding the day of an election
161 at which a candidate is seeking election, the commission shall not
162 initiate an audit in the absence of a complaint that involves a
163 committee of the same candidate from a previous election, and (B) the
164 commission shall not audit any caucus, as defined in subdivision (1) of
165 section 9-372;

166 [(6)] (7) To attempt to secure voluntary compliance, by informal
167 methods of conference, conciliation and persuasion, with any
168 provision of chapter 149, 151 to 153, inclusive, 155, 156 or 157 or any
169 other provision of the general statutes or regulations relating to any
170 such election, primary or referendum;

171 [(7)] (8) To consult with the Secretary of the State, the Chief State's
172 Attorney or the Attorney General on any matter which the commission
173 deems appropriate;

174 [(8)] (9) To refer to the Chief State's Attorney evidence bearing upon
175 violation of any provision of chapter 149, 151 to 153, inclusive, 155, 156
176 or 157 or any other provision of the general statutes or regulations
177 pertaining to or relating to any such election, primary or referendum;

178 [(9)] (10) To refer to the Attorney General evidence for injunctive
179 relief and any other ancillary equitable relief in the circumstances of

180 subdivision [(8)] (9) of this subsection. Nothing in this subdivision
181 shall preclude a person who claims that he is aggrieved by a violation
182 of any provision of chapter 152 or any other provision of the general
183 statutes relating to referenda from pursuing injunctive and any other
184 ancillary equitable relief directly from the Superior Court by the filing
185 of a complaint;

186 [(10)] (11) To refer to the Attorney General evidence pertaining to
187 any ruling which the commission finds to be in error made by election
188 officials in connection with any election, primary or referendum. Those
189 remedies and procedures available to parties claiming to be aggrieved
190 under the provisions of sections 9-323, 9-324, 9-328, [and] 9-329a and 9-
191 371b shall apply to any complaint brought by the Attorney General as
192 a result of the provisions of this subdivision;

193 [(11)] (12) To consult with the United States Department of Justice
194 and the United States Attorney for Connecticut on any investigation
195 pertaining to a violation of this section, section 9-12, subsection (a) of
196 section 9-17 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a,
197 9-23g, 9-23h, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-
198 35c, 9-40a, 9-42, 9-43, 9-50a, 9-56 or 9-59 and to refer to said department
199 and attorney evidence bearing upon any such violation for prosecution
200 under the provisions of the National Voter Registration Act of 1993,
201 P.L. 103-31, as amended from time to time;

202 [(12)] (13) To inspect reports filed with town clerks pursuant to
203 chapter 155 and refer to the Chief State's Attorney evidence bearing
204 upon any violation of law therein if such violation was committed
205 knowingly and wilfully;

206 [(13)] (14) To intervene in any action brought pursuant to the
207 provisions of sections 9-323, 9-324, 9-328 and 9-329a upon application
208 to the court in which such action is brought when in the opinion of the
209 court it is necessary to preserve evidence of possible criminal violation
210 of the election laws;

211 [(14)] (15) To adopt and publish regulations pursuant to chapter 54

212 to carry out the provisions of section 9-7a, this section, and chapters
213 155, 156 and 157; to issue upon request and publish advisory opinions
214 in the Connecticut Law Journal upon the requirements of chapters 155,
215 156 and 157, and to make recommendations to the General Assembly
216 concerning suggested revisions of the election laws;

217 [(15)] (16) To the extent that the Elections Enforcement Commission
218 is involved in the investigation of alleged or suspected criminal
219 violations of any provision of the general statutes pertaining to or
220 relating to any such election, primary or referendum and is engaged in
221 such investigation for the purpose of presenting evidence to the Chief
222 State's Attorney, the Elections Enforcement Commission shall be
223 deemed a law enforcement agency for purposes of subdivision (3) of
224 subsection (b) of section 1-210, provided nothing in this section shall be
225 construed to exempt the Elections Enforcement Commission in any
226 other respect from the requirements of the Freedom of Information
227 Act, as defined in section 1-200;

228 [(16)] (17) To enter into such contractual agreements as may be
229 necessary for the discharge of its duties, within the limits of its
230 appropriated funds and in accordance with established procedures;

231 [(17)] (18) To provide the Secretary of the State with notice and
232 copies of all decisions rendered by the commission in contested cases,
233 advisory opinions and declaratory judgments, at the time such
234 decisions, judgments and opinions are made or issued;

235 [(18)] (19) To receive and determine complaints filed under the Help
236 America Vote Act, P.L. 107-252, as amended from time to time, by any
237 person who believes there is a violation of any provision of Title III of
238 P.L. 107-252, as amended. Any complaint filed under this subdivision
239 shall be in writing, notarized and signed and sworn by the person
240 filing the complaint. At the request of the complainant, there shall be a
241 hearing on the record, conducted in accordance with sections 4-167e to
242 4-184, inclusive. The commission shall make a final determination with
243 respect to a complaint prior to the expiration of the ninety-day period
244 beginning on the date the complaint is filed, unless the complainant

245 consents to a longer period for making such determination. If the
246 commission fails to meet the applicable deadline under this
247 subdivision with respect to a complaint, the commission shall resolve
248 the complaint within sixty days after the expiration of such ninety-day
249 period under an alternative dispute resolution procedure established
250 by the commission.

251 (b) In the case of a refusal to comply with an order of the
252 commission issued pursuant to subdivision (3) or (4) of subsection (a)
253 of this section, the superior court for the judicial district of Hartford,
254 on application of the commission, may issue a further order to comply.
255 Failure to obey such further order may be punished by the court as a
256 contempt thereof.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	July 1, 2009	9-7b
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GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Elect. Enforcement Com.	GF - Revenue Gain	Indeterminate	Indeterminate

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill clarifies the authority that the State Elections Enforcement Commission (SEEC) has with regards to enforcing the Secretary of the State's regulations governing the new voting machines. This enforcement authority against violators of election procedures would be consistent with the SEEC's prior authority with respect to lever machines. The SEEC can impose a civil penalty of up to \$2,000 per violation. This could result in a revenue gain, which is not expected to be significant.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 1108*****AN ACT CONCERNING THE POWERS AND DUTIES OF THE
STATE ELECTIONS ENFORCEMENT COMMISSION.*****SUMMARY:**

This bill expands the State Elections Enforcement Commission's (SEEC) power to investigate alleged election violations, impose penalties for such violations, and issue orders requiring violators to comply. It allows SEEC to refer evidence of election law regulation violations to the chief state's attorney in the same way that it can refer violations of the law.

It authorizes SEEC to ask the Hartford Superior Court to enforce its orders and authorizes the court to comply with the request. The commission may apply for an enforcement order only after giving the violator an opportunity for a hearing conducted as a contested case under the Uniform Administrative Procedures Act. SEEC may use informal methods to secure compliance with election-related regulations just as it can with election-related laws.

The bill authorizes SEEC to adopt regulations for electronically filing campaign finance statements. By law, candidate committees must disclose their campaign receipts and expenditures in a statement filed with SEEC based on a schedule set out in statute. Statewide candidates that raise or spend \$250,000 or more during a campaign must file the statements electronically. Other candidate committees may file the statements electronically.

Lastly, the bill authorizes the attorney general to impose the same remedies as the Superior Court when ruling on cases referred by SEEC having to do with erroneous decisions by election officials in connection with an election, primary, or referendum. This means he

can order a recount of votes, certify different election or primary results, and order a new referendum.

EFFECTIVE DATE: July 1, 2009

SEEC INVESTIGATORY POWERS

With respect to investigations, it allows SEEC to:

1. investigate alleged election, referenda, and primary law violations based on statements filed with it by registrars of voters (it may currently investigate on its own initiative or based on statements filed by town clerks or the secretary of the state or individual complaints);
2. investigate alleged violations of election, primary, and referenda regulations on its own initiative; based on statements filed by registrars of voters, town clerks, or the secretary of the state; or based on written complaints under oath from individuals;
3. hold hearings as part of investigations of regulation violations;
4. issue broader subpoenas for records by allowing it to compel the production of records, documents, or information in any format, rather than just books and papers;
5. order that voting tabulators, ballots, memory cards, and any component or process used to program the card be impounded until the investigation is completed (it may currently order that voting machines be impounded); and
6. issue the impoundment order to the registrars of voters, local official, or company that maintains custody (it may currently issue the order to town clerks).

SEEC'S POWER TO IMPOSE PENALTIES

By law, SEEC may impose a civil penalty of up to \$2,000 per offense against anyone who violates certain specified election-related laws.

The bill expands the SEEC's jurisdiction and allows it to impose this penalty on:

1. registrars of voters who fail to promptly update the statewide voter registry system,
2. election officials for failure to discharge a duty required by laws on elections and voting methods,
3. anyone who violates election-related regulations,
4. anyone who violates the federal Help America Vote Act, and
5. anyone who violates a commission order.

The bill allows SEEC to impose a penalty of \$2,000 per offense or twice the amount of any improper payment or contribution, whichever is greater, against any person it finds to be in violation of (1) the law on electronic filing of campaign finance statements, or (2) regulations on campaign finance, electronic filing, and the Citizens' Election Program (CEP). It can already impose this penalty for campaign finance and CEP law violations.

Just as it does currently, SEEC must provide an opportunity for a hearing before imposing penalties under the bill.

SEEC'S POWER TO ISSUE ORDERS

The bill allows SEEC, after a hearing, to issue orders requiring anyone who it finds received a contribution or payment in violation of campaign finance or CEP regulations to return it or give it to the General Fund or the Citizens' Election Fund (the funding source for the CEP). SEEC already has this authority with respect to violations of law.

It allows SEEC to issue orders for intentional violations of (1) campaign finance, CEP, and electronic filing regulations and (2) laws on electronic filing. As under current law, the orders would be issued after a hearing and may require the removal of certain campaign

workers, prohibit people from serving as such workers, and suspend the political activities of party or political committees.

The bill allows SEEC, after a hearing, to revoke a person's eligibility to serve as an official or poll worker on the day of an election, primary, or referendum if it finds that he or she intentionally violated any regulation relating to the conduct of an election, primary, or referendum.

Lastly, it allows SEEC to order a candidate committee that receives money from the CEP to comply with CEP regulations.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 15 Nay 0 (03/25/2009)